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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,442	03/26/2004	John W. Ketchum	000252C1	8969
23596 7590 06/17/2010 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121				
EXAMINER CORRIELUS, JEAN B				
ART UNIT 2611		PAPER NUMBER		
NOTIFICATION DATE 06/17/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com

Office Action Summary

Application No.

10/810,442

Applicant(s)

KETCHUM, JOHN W.

Examiner

Jean B. Corrielus

Art Unit

2611

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-11, 13-15, 23-26, 28, 29 and 40-122 is/are pending in the application.
- 4a) Of the above claim(s) 40-80 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-11, 13-15, 23-26, 28 and 29 is/are allowed.
- 6) ☒ Claim(s) 96, 98, 99 and 101-120 is/are rejected.
- 7) ☒ Claim(s) 81-95, 97, 100, 121-122 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 5/19/10 has been entered.

Election/Restrictions

2. Newly submitted claims 40-80 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the newly submitted claims 40-80 were restricted on the office action mailed on 6/1/07, as being directed to a method being performed in a receiving apparatus and/or to an apparatus being implemented in a receiver while the originally elected claims include an invention directed to a method and/ or apparatus being implemented in a transmitting device.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 40-80 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Objections

3. Claims 81-122 are objected to because of the following informalities: Claims 81, 91, 100-101, 111, and 120-122 fail to use proper line indentation in conformance with MPEP 37 CFR 1.75, that partly recites:

“Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation”.

As per claim 89, please define "n". Same comment applies to claim 99, 109 and 119, respectively.

Claim 121 is an apparatus type claim therefore the limitation “and for feeding the plurality of portions to a plurality of orthogonal sequence covers” should be replaced by “a plurality of orthogonal sequence covers for receiving the plurality of portions of the second modulation symbol sequence” for consistency with the structure of the apparatus.

Any claim whose base claim is objected is likewise objected.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 101-121 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As per claim 101, the embodiment of an “apparatus comprising a processor and a memory, the memory containing program code executable by the processor for performing ...” is not supported by the original disclosure as filed. As per claim 111, the embodiment of a “computer-readable medium storing a computer program, wherein execution of the computer program is for ...” is not supported by the original disclosure, as filed.

Any claim whose base claim is rejected is likewise rejected.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 96 and 98-99 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 96, line 1, “the feeding step” lacks of proper antecedent basis.

Claim 98, line 1, “the modulating step” lacks of proper antecedent basis.

Claim 99 is likewise rejected for its dependency to claim 98.

Allowable Subject Matter

8. Claims 7-11, 13-16, 23-26 and 28-29 are allowed.
9. Claims 81-95, 97, 100 and 121-122 would be allowable if amended to overcome the objection set forth above.

10. Claims 96 and 98-99 would be allowable if amended to overcome the 112 rejection set for above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is 571-272-3020. The examiner can normally be reached on Monday-Thursday from 9:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on 571-272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jean B Corrielus/
Primary Examiner, Art Unit 2611